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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 396**

**Introduced by Assembly Member Harman**  
(Coauthors: Senators Hollingsworth and Morrow)

February 14, 2003

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An act to repeal and add Article 3 (commencing with Section 1570) of Chapter 5 of Division 2 of, the Fish and Game Code, relating to ~~wildlife, and making an appropriation therefor.~~ *wildlife*.

LEGISLATIVE COUNSEL'S DIGEST

AB 396, as amended, Harman. Shared Habitat Alliance for Recreational Enhancement Program.

~~(1) Existing~~

*Existing* law authorizes the Department of Fish and Game to contract with the owners or lessees of land for the establishment of cooperative hunting areas.

This bill would repeal that provision and instead would require the department, in partnership with nonprofit conservation groups and other interested nongovernmental organizations, to establish the Shared Habitat Alliance for Recreational Enhancement Program, to encourage

private landowners to voluntarily make their land available to the public for wildlife-dependent recreational activities, as defined. The bill would authorize the department to enter into voluntary agreements with private landowners to make their land available for public use. The bill would prohibit General Fund money from being used for the program, ~~and would state that the program shall be supported solely by user fees~~ *but would authorize the department to impose user fees or apply for grants, federal funds, or other nonstate sources of funds. The bill would establish the SHARE Account in the Fish and Game Preservation Fund, to be used for the purposes of the bill. The bill would prohibit money from being spent on the program unless the Legislature appropriates money therefor.* The bill would ~~authorize~~ *require* department to require a person who wants to use land that is subject to an agreement to sign a waiver that releases the department and any nonprofit group, governmental entity, or organization from liability for damage or injury that arises from that person's use of the land. The bill would require the department to ~~collect and~~ maintain certain data on the program.

This bill would authorize the department to revoke the public access privilege of any person who violates a law or regulation while on private property that is subject to an agreement and would require the department to enforce all applicable regulations on that property. The bill would require every agreement to prohibit the take of nongame species by public participants in the program. The bill would require the Fish and Game Commission to establish regulations and fees for the purposes of the bill.

~~(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and the commission to pay all necessary expenses incurred in carrying out the Fish and Game Code, and to pay the compensation and expenses of the commissioners and employees of the commission. Unless otherwise provided, under existing law, all moneys collected under the code are deposited in the fund.~~

~~By imposing new duties on the department and the commission, and by increasing moneys deposited in the fund, the bill would make an appropriation.~~

Vote: majority. Appropriation: ~~yes~~—no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Article 3 (commencing with Section 1570) of Chapter 5 of Division 2 of the Fish and Game Code is repealed.

SEC. 2. Article 3 (commencing with Section 1570) is added to Chapter 5 of Division 2 of the Fish and Game Code, to read:

Article 3. Shared Habitat Alliance for Recreational Enhancement Program

1570. In establishing the Shared Habitat Alliance for Recreational Enhancement (“SHARE”) Program, it is the intent of the Legislature to encourage private landowners to voluntarily make their land available to the public for wildlife-dependent recreational activities. The Legislature further encourages private landowners to use any funds received from the SHARE program for wildlife ~~enhancement~~ conservation purposes on their property. The SHARE program shall be a collaborative effort by all participants to facilitate wildlife-dependent recreational activities on private land at minimal expense to the state. The Legislature declares that interested nongovernmental organizations are the key to developing, planning, and implementing the SHARE program.

1571. For purposes of this article, the following definitions apply:

(a) “Agreement” includes, but is not limited to, a contract, license, easement, memorandum of understanding, or lease.

(b) “Partnership” means a collaborative effort involving financial or in-kind contributions by nongovernmental organizations, the department, and other interested parties working in concert to effect the goals of the program.

(c) “Private landowner” means an owner of any possessory interest in real property that is suitable for use for wildlife-dependent recreational activities.

(d) “Program” means the SHARE program established under this article.

(e) “Wildlife-dependent recreational activities” means hunting, fishing, wildlife observation, conservation education, and related outdoor activities.

1 1572. (a) The department, in partnership with nonprofit  
2 conservation groups and other interested nongovernmental  
3 organizations that seek to increase and enhance  
4 wildlife-dependent recreational opportunities, shall work  
5 cooperatively to plan and develop a program to facilitate public  
6 access to private lands for wildlife-dependent recreational  
7 activities.

8 (b) Once the terms of the program have been established and  
9 approved by the partnership, the commission shall verify that  
10 sufficient demonstration of private landowner *and program*  
11 *participant* interest has been shown to support the program. *The*  
12 *Department of Finance shall verify that sufficient funds exist in the*  
13 *SHARE Account to start the program.* Upon that verification, in  
14 order to facilitate the implementation of the program, the  
15 commission shall adopt regulations and fees for the management  
16 and control of wildlife-dependent recreational activities on land  
17 that is subject to this article.

18 (c) *The SHARE Account is hereby established in the Fish and*  
19 *Game Preservation Fund. Money deposited in the SHARE*  
20 *Account from the sources cited in subdivision (d) shall only be used*  
21 *for the purposes set forth in this article and to repay the General*  
22 *Fund or the Fish and Game Preservation Fund, as appropriate, for*  
23 *any expenses incurred by the department, commission, or the*  
24 *Department of Finance in establishing the SHARE Program.*

25 (d) No General Fund money shall be used for the program.  
26 ~~The program shall be supported solely by user fees, no more than~~  
27 ~~10 percent of which may be expended for wildlife enhancement~~  
28 ~~purposes on lands subject to an agreement under the program.~~

29 ~~(d) The department shall collect and maintain data on the~~  
30 ~~number of participants in the program who are hunters, compared~~  
31 ~~to nonhunters. The department may impose user fees or apply for~~  
32 ~~grants, federal funds, or other contributions from nonstate sources~~  
33 ~~to fund the program. Funds may also be used for wildlife~~  
34 ~~conservation purposes on lands subject to an agreement under the~~  
35 ~~program. Notwithstanding Section 13220, no money shall be~~  
36 ~~available for the program unless the Legislature appropriates~~  
37 ~~money to the department therefor.~~

38 (e) *The department shall maintain data on the types of*  
39 *wildlife-dependent recreational activities preferred by users.*

1 1573. (a) (1) The department may enter into a voluntary  
2 agreement with a private landowner, including an agreement  
3 under which the private landowner is compensated by the  
4 department for public use of the land, to provide public access for  
5 wildlife-dependent recreational activities. ~~The~~ *Any financial*  
6 *compensation offered to a private landowner pursuant to this*  
7 *paragraph shall not exceed thirty dollars (\$30) per acre, and shall*  
8 *be commensurate with the quality of the wildlife-dependent*  
9 *recreational opportunities that are to be provided on the property.*

10 (2) The department also may enter into a voluntary agreement  
11 with a private landowner to facilitate access to adjacent public  
12 land, upon approval of the governmental entity that holds title to  
13 the land. This article does not authorize a private landowner to  
14 exclude persons not participating in the SHARE program from  
15 using public land for wildlife-dependent activities.

16 (b) Notwithstanding any other provision of law, the department  
17 shall keep confidential and not release to the public any personal  
18 identifying information received from a private landowner  
19 participating in the program, unless the director determines that  
20 release of that information is necessary for the administration of  
21 the program.

22 (c) Either the department or a private landowner may, in  
23 writing, modify or cancel an agreement executed under the  
24 program, at any time. *Upon cancellation or modification of the*  
25 *agreement by either party, the other party shall be reimbursed for*  
26 *any lost revenues or expenses incurred pursuant to the terms of the*  
27 *original agreement.*

28 (d) In addition to any other protection or remedy under law, the  
29 protections and remedies afforded to an owner of an estate or any  
30 other interest in real property under Section 846 of the Civil Code  
31 shall apply to a private landowner participating in the program.

32 (e) The department ~~may~~ *shall* require every person who wants  
33 to use land that is subject to an agreement pursuant to subdivision  
34 (a), prior to using that land, to sign a waiver that releases the  
35 department or any private group, governmental entity, or other  
36 organization involved in administering the program, and the  
37 private landowner, from liability for any injury or damage that  
38 arises from, or is connected with that person's use of the land.  
39 Upon request, the department shall provide a copy of the waiver  
40 to any of the parties to the waiver.

1 (f) Every agreement executed pursuant to the program shall  
2 prohibit the take of nongame species by public participants in the  
3 program. An agreement may not authorize a private landowner to  
4 transfer a hunting, *or* fishing license, stamp, or tag to another  
5 person, unless otherwise authorized by law.

6 (g) In determining which lands may be included in the  
7 program, the department shall give priority to those lands with the  
8 greatest wildlife habitat value. The department shall also include  
9 in the program private lands on which hunting is not ~~currently~~  
10 ~~allowed, in order to encourage nonhunters to participate in the~~  
11 ~~program.~~ *allowed, in order to take into consideration the*  
12 *participation of the nonhunting public in the program.*

13 1574. (a) The department may revoke, for up to three years,  
14 the public access privilege granted pursuant to this article, of any  
15 person who violates any law or regulation while on any property  
16 that is subject to an agreement under the program.

17 (b) The department shall enforce all applicable regulations  
18 established by the commission on property that is subject to an  
19 agreement executed under the program.

